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BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Kirk McNally,

Plaintiff,

- against -

ORDER ADOPTING R&R
12-cv-4152 (SLT) (LB)

United States of America,

Defendant.

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TOWNES, United States District Judge,

Pro se plaintiff Kirk McNally commenced the instant Federal Tort Claims Act action against the United States on August 15, 2012. The matter was referred to Magistrate Judge Bloom for all pretrial purposes. On September 5, 2012, Judge Bloom granted plaintiff leave to proceed *in forma pauperis* and a copy of that Order was mailed to plaintiff. That Order was returned as undeliverable. Judge Bloom ordered plaintiff to provide the Court with his current address by October 19, 2012, and warned plaintiff that failure to comply with her order would result in dismissal of the action for failure to prosecute. Plaintiff failed to provide his current address to the Court by October 19, 2012, or any time thereafter. By order dated November 7, 2012, Judge Bloom issued a report and recommendation recommending that plaintiff's complaint be dismissed without prejudice for failure to prosecute. Pursuant to 28 U.S.C. § 636(b)(1), within fourteen days of service of the recommendation, any party was permitted to file written objections to Judge Bloom's report. 28 U.S.C. § 636(b)(1). 28 U.S.C. § 636(b)(1) provides that, upon *de novo* review of those portions of the record to which objections were made, a district court judge may affirm or reject the recommendations. *See id.* The Court is not required to review the factual or legal conclusions in those portions of the report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition,

failure to file timely objections may waive the right to appeal this Court's Order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

In this case, no objections were timely filed with this Court. Judge Bloom recommended that plaintiff's complaint be dismissed without prejudice for failure to prosecute and that the Clerk of Court be directed to close this case. The Court affirms and adopts the report and recommendation in its entirety.

CONCLUSION

Judge Bloom's November 7, 2012 Order is hereby affirmed and adopted in its entirety. Plaintiff's complaint is dismissed for failure to prosecute. The Clerk of Court is respectfully directed to close this case.

SO ORDERED

/s/ Sandra L. Townes

SANDRA L. TOWNES
United States District Judge

Dated: Brooklyn, New York
January 20, 2015